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**Fact Sheet – Fatality Inspections
Construction Safety & Health Division
Fatal Accident 01/11/12 at the Ambassador Bridge**

**Seaway Painting, LLC – Inspection # 313317794
Walter Toebe Construction Co. – Inspection # 313317778**

Citations Issued: May 10, 2012

Introduction

One of the most tragic events in the workplace occurs when an employee is killed or seriously injured on the job. In order to protect employees from workplace accidents and injuries and to ensure a safe and healthful place of employment, the Michigan Occupational Safety and Health (MIOSH) Act was enacted in 1974.

The mission of the MIOSHA program is to help assure safe and healthful work environments for all Michigan workers. While nothing can ever replace the loss of a life, MIOSHA is committed to do everything possible to prevent similar types of accidents. We understand that each worker's death is a deep personal loss and tragedy.

Accident Investigation – January 11, 2012

In September of 2010, the Detroit International Bridge Company hired Walter Toebe Construction Co. of Wixom, Michigan, as the General Contractor for a \$2.3 million dollar rehabilitation project on the Ambassador Bridge which spans over the Detroit River between Detroit and Windsor, Ontario. The project involves replacement of the original roadway between the American and Canadian towers; including removal and replacement of the existing concrete, supporting steel, guardrails, designated structural steel gussets, and lighting. A suspended scaffold, engineered and designed by SafeSpan, Inc., was set up underneath the bridge to perform portions of the work.

On January 11, 2012, Seaway Painting, LLC was relocating a section of the scaffold that was suspended along the central span underneath the Ambassador Bridge and moving it to the south span in order to continue the project. Three employees were in the process of moving the final row of scaffold deck sheets when an incident occurred. One of three cables supporting a deck sheet shifted unexpectedly, causing one end to tilt down while an employee was standing on it. The two other supporting cables then shifted and the deck sheet dropped down even further to almost vertical, causing the employee to fall nearly 140 feet into the Detroit River. The employee was observed briefly surfacing and then floundered as the current swept him down the river. The employee disappeared underwater and did not resurface. The victim's body was found several weeks later.

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The MIOSHA Construction Safety and Health Division (CSDH) opened an investigation on January 11, 2012. The investigation found that the employer did not erect the suspended scaffold in accordance with the scaffold design, did not follow the procedures for erecting and dismantling the suspended scaffold as outlined by the scaffold manufacturer, and did not ensure employees were protected from falling while dismantling the scaffold. The employee was not protected with a personal fall arrest system while dismantling the scaffold and fell nearly 140 feet into the Detroit River. The river was approximately 40 feet deep. There were no lifesaving boats or ring buoys available at the location. The employee surfaced for a short while and then was swept under the water. The U.S. Coast Guard was called to assist in locating the employee. The victim's body was found several weeks later.

The Project Manager for **Seaway Painting, LLC** directed activities at the jobsite and allowed employees to dismantle a suspended scaffold nearly 140 feet above the Detroit River without having lifesaving boats or ring buoys readily available in case of drowning. **Walter Toebe Construction Co.** and **Seaway Painting, LLC** inspected the scaffold and allowed employees to perform work from the scaffold while exposed to serious fall hazards associated with improper erecting of the scaffold and allowed the scaffold to be installed in a manner that was not in accordance with the manufacturer's specification and design. A third employer working on this project is **Rauhorn Electric, Inc.**, whose employees were demolishing existing electrical lighting and related equipment. A fourth employer working on this project is **Soil and Materials Engineers, Inc.**, whose employees were providing quality assurance for the work being performed.

Summary of Violations – Total Proposed Penalties – \$107,900

The responsibility to protect employees lies with the employer. It is anticipated that issuing these citations will cause each employer to strengthen their safety and health efforts by maintaining corrections. During these inspections, MIOSHA found these four employers had some level of responsibility to correct the hazard/s.

When there are multiple employers on a worksite, MIOSHA must determine which employers may be cited. MIOSHA Instruction COM-04-1R3, *Multi-Employer Work Sites*, provides guidelines for compliance officers during multi-employer inspections. This instruction defines the employer roles:

- The **Creating Employer**: The employer that caused a hazardous condition that violates a MIOSHA standard. (Seaway Painting, LLC; Walter Toebe Construction Co.; Rauhorn Electric Inc.)
- The **Exposing Employer**: An employer whose own employees are exposed to the hazard. (Seaway Painting, LLC; Walter Toebe Construction Co.; Rauhorn Electric Inc.; Soil and Materials Engineers, Inc.)
- The **Correcting Employer**: An employer who is engaged in a common undertaking, on the same worksite as the exposing employer, and is responsible for correcting a hazard. (Seaway Painting, LLC; Walter Toebe Construction Co.; Rauhorn Electric Inc.)
- The **Controlling Employer**: An employer who has general supervisory authority over the worksite. (Walter Toebe Construction Co.)

The summaries of violations are below for the four companies. The total proposed penalty for the four companies is \$107,900. The citations and penalties reflect an evaluation of the conditions, MIOSHA requirements, and the level of consequences that could result.

Summary of Violations – Seaway Painting, LLC – \$67,000 Penalties

- As a contractor doing work on-site, Seaway Painting, LLC is being issued citations for exposing its employees.
- As a creating contractor, Seaway Painting, LLC is being issued citations for exposing the employees of other contractors.
- As a correcting employer, Seaway Painting, LLC is being issued citations for not correcting at the start of the work or during the course of the work.

As a result of the accident investigation (#313317794) conducted by the MIOSHA Construction Safety and Health Division (CSDH), Seaway Painting, LLC received eight Serious violations for alleged safety hazards with total proposed penalties of \$56,000. The Seaway Painting, LLC foreman directed activities at the jobsite and allowed employees to work in hazardous conditions. The CSDH also conducted a separate inspection (#313317679) of serious scaffolding hazards not related to the fatality. For this inspection, Seaway Painting LLC received five Serious violations and eight Other-than-Serious violations for alleged safety hazards with total proposed penalties of \$11,000. The combined penalty for both inspections is \$67,000. Seaway Painting, LLC is well aware of their responsibility to protect their workers. The company has been inspected 15 times in the past 10 years and has been issued 29 Serious violations.

Seaway Painting, LLC – Inspection # 313317794 (Fatality Investigation)			
Rule / Standard	Classification	Description	Penalty
Part 1 General Rules Rule 408.40114-1	Serious	Accident prevention program not followed as related to hazard identification, equipment inspection criteria, emergency procedures, use of/completion of required forms, and duties of program administrators.	\$7000.00
Part 6 Personal Protective Equipment Rule 408.40631-1	Serious	No protection for employees working from unguarded work surfaces.	\$7000.00
Part 6 Personal Protective Equipment Rule 408.40636-3	Serious	No ring buoys readily available at the location.	\$7000.00
Part 6 Personal Protective Equipment Rule 408.40636-4	Serious	No lifesaving boat readily available at the location.	\$7000.00
Part 12 Scaffolds and Scaffold Platforms Rule 408.41209-2	Serious	Employees not trained in erecting, disassembling, moving, maintaining, and inspecting scaffolding.	\$7000.00
Part 12 Scaffolds and Scaffold Platforms Rule 408.41209-3	Serious	Employees not being retrained as necessary.	\$7000.00
Part 12 Scaffolds and Scaffold Platforms Rule 408.41210-2	Serious	No competent person for erection, moving, dismantling or alteration of scaffolding.	\$7000.00
Part 12 Scaffolds and Scaffold Platforms Rule 408.41213-6	Serious	Employee not wearing/using fall protection while dismantling/moving/erecting scaffolding.	\$7000.00
		Total	\$56,000
Seaway Painting, LLC – Inspection # 313317679			
Rule / Standard	Classification	Description	Penalty
Part 12 Scaffolds and Scaffold Platforms Rule 408.41210-1	Serious	Suspended scaffold not installed as required by supplied engineered drawings.	\$3000.00

Part 12 Scaffolds and Scaffold Platforms Rule 408.41210-6	Serious	The suspended scaffold and its components were not inspected and repaired/replaced as required on a daily basis.	\$3000.00
Part 12 Scaffolds and Scaffold Platforms Rule 408.41211-1	Serious	Employees are accessing/egressing the suspended scaffold (3.5 feet below the deck beam bottom flange) by climbing down the structural riveted/painted diagonal box beam for the bridge.	\$1000.00
Part 12 Scaffolds and Scaffold Platforms Rule 408.41212-9	Serious	No means of rescue or self-rescue are provided for employees working wearing personal fall protection 140 feet above the Detroit River.	\$1000.00
Part 12 Scaffolds and Scaffold Platforms Rule 408.41213-1	Serious	"As designed" the suspended scaffold's wire rope guard rail does not meet the performance requirement of R408.42150. "As installed" with missing components the suspended scaffold's wire rope guard rail does not meet the scaffold's design engineer's performance requirements.	\$3000.00
		Total	\$11,000
		Combined Total	\$67,000

Summary of Violations – Walter Toebe Construction Co. – \$28,700 Penalties

- As the general contractor, Walter Toebe Construction Co. is being issued citations as the controlling contractor on the site.
- As a contractor doing work on-site, Walter Toebe Construction Co. is being issued citations for exposing its employees.

As a result of the accident investigation (#313317778), Walter Toebe Construction Co. received two Serious violations for alleged safety hazards with total proposed penalties of \$14,000. Walter Toebe Construction Co. had a field superintendent and foreman who directed activities at the jobsite and allowed employees/workers to work in hazardous conditions. The CSHD also conducted a separate inspection (#313317661) of serious scaffolding and fall protection hazards not related to the fatality. For this inspection Walter Toebe Construction Co. received nine Serious violations for alleged safety hazards with total proposed penalties of \$14,700. The combined penalty for both inspections is \$28,700. Walter Toebe Construction Co. is well aware of their responsibility to protect their workers. The company has been inspected 44 times in the past 10 years and has been issued 56 Serious violations.

Walter Toebe Construction Co. – Inspection # 313317778 (Fatality Investigation)			
Rule/Standard	Classification	Description	Penalty
Part 6 Personal Protective Equipment Rule 408.40636-3	Serious	No ring buoys readily available at the location.	\$7000.00
Part 6 Personal Protective Equipment Rule 408.40636-4	Serious	No lifesaving boat available at the location.	\$7000.00

		Total	\$14,000
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Walter Toebe Construction Co. – Inspection # 313317661			
Rule / Standard	Classification	Description	Penalty
Part 8 Handling and Storage of Materials Rule 408.40818-1	Serious	Unsecured materials stored above walking/working surfaces.	\$1400.00
Part 12 Scaffolds and Scaffold Platforms Rule 408.41209-1	Serious	Employees not trained for walking/working from suspended scaffolding.	\$1400.00
Part 12 Scaffolds and Scaffold Platforms Rule 408.41210-1	Serious	Suspended scaffold not installed as required by supplied engineered drawings.	\$2450.00
Part 12 Scaffolds and Scaffold Platforms Rule 408.41210-6	Serious	Suspended scaffold and its components were not inspected and repaired/replaced as required on a daily basis.	\$2450.00
Part 12 Scaffolds and Scaffold Platforms Rule 408.41213-1	Serious	“As designed” the suspended scaffold’s wire rope guard rail does not meet the performance requirement of R408.42150. “As installed” with missing components the suspended scaffold’s wire rope guard rail does not meet the scaffold’s design engineer’s performance requirements.	\$2450.00
Part 45 Fall Protection Rule 1926.501-c	Serious	Material stored at unprotected edge above walking/working surface.	\$1400.00
Part 45 Fall Protection Rule 1926.502-d-15	Serious	No rating for fall protection anchorage as installed.	\$1050.00
Part 45 Fall Protection Rule 1926.502-i-3	Serious	Unsecured steel grating used as hole covers.	\$1050.00
Part 45 Fall Protection Rule 1926.502-i-4	Serious	Covers for holes not marked or color coded.	\$1050.00
		Total	\$14,700
		Combined Total	\$28,700

Summary of Violations – Rauhorn Electric Co. – \$8,900 Penalties

- As a contractor doing work on-site, Rauhorn Electric Co. is being issued citations for exposing its employees.

The CSHD conducted a separate inspection (#313317695) of serious electrical hazards not related to the fatality. Rauhorn Electric Co. received three Serious violations for alleged safety hazards with total proposed penalties of \$8,900. Rauhorn Electric Co. had a field superintendent and foreman who directed activities at the jobsite and allowed employees/workers to work in hazardous conditions. Rauhorn Electric Co. is well aware of

their responsibility to protect their workers. The company has been inspected 14 times in the past 10 years and has been issued five Serious violations.

Rauhorn Electric Co. – Inspection # 313317695			
Rule / Standard	Classification	Description	Penalty
Part 17 Electrical Installations Rule 408.41719-1-13	Serious	Energized conductors in contact with scaffolding steel wire ropes.	\$4000.00
Part 17 Electrical Installations Rule 408.41723-3	Serious	Employees/workers exposed to unprotected energized 240-volt wiring.	\$2450.00
Part 17 Electrical Installations Rule 408.41734-1	Serious	Electrical installations not inspected.	\$2450.00
		Total	\$8,900

Summary of Violations – Soil and Materials Engineers, Inc. – \$3,300 Penalties

- As a contractor doing work on-site, Soil and Materials Engineers, Inc. is being issued citations for exposing its employees.

CSHD conducted a separate inspection (#313317687) of serious hazards not related to the fatality. Soil and Materials Engineers, Inc. received two Serious violations for alleged safety hazards with total proposed penalties of \$3,300. Soil and Materials Engineers, Inc. had a senior project engineer who directed activities at the jobsite and allowed employees to work in hazardous conditions. Soil and Materials Engineers, Inc. is well aware of their responsibility to protect their workers. The company has been inspected one time in the past 10 years and has been issued zero Serious violations.

Soil and Materials Engineers – Inspection # 313317687			
Rule / Standard	Classification	Description	Penalty
Part 6 Personal Protective Equipment Rule 408.40636-3	Serious	No ring buoys readily available at the location.	\$1200.00
Part 6 Personal Protective Equipment Rule 408.40636-4	Serious	No lifesaving boat readily available at the location.	\$2100.00
		Total	\$3,300

MIOSHA Regulations

The MIOSH Act requires enforcement of workplace safety and health standards through periodic MIOSHA inspections. MIOSHA has different types of compliance inspections: imminent-danger, fatality and accident investigations; complaint, referral and follow-up investigations; as well as scheduled inspections.

An inspection or investigation at a work site may reveal conditions which do not comply with provisions of the MIOASH Act. The nature of such alleged violation(s) is described on the citation(s) with reference to applicable standards, rules, regulations, orders, and provisions of the Act. MIOASHA standards must be complied with, whether an employer is inspected or not.

MIOASHA citations are classified according to seriousness of an injury that might occur if an accident were to happen due to the violation of a MIOASHA standard. These classifications are:

- **Willful** – A violation committed with an intentional disregard or plain indifference to the requirements of MIOASHA regulations or employee safety and health.
- **Serious** – A hazard exists that has a substantial probability of causing serious physical harm or death.
- **Repeat Serious** – A violation of the same rule within three years.
- **Other-than-Serious** – A hazard exists and could cause an injury, but probably would not result in death or serious physical harm.

MIOASHA investigates all workplace fatalities that are determined to be “program-related,” meaning that a rule or violation may have been associated with the incident. These investigations identify the hazards and conditions which existed at the time the incident occurred, with a goal of eliminating hazards to prevent reoccurrence.

Each company has 15 working days from receipt of the citations and notices to comply or contest the violations and penalties.

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